

State of Alaska FY2003 Governor's Operating Budget

Department of Law Transportation Section Component Budget Summary

Component: Transportation Section

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Component Mission

Mission statement appears at the department summary and BRU levels.

Component Services Provided

The Transportation section provides legal representation and advice to DOT/PF on all aspects of the construction and operation of the state's public facilities, including buildings, highways, ferries, airports, harbors, communications facilities, and other public works. By providing advice and representation to the department on these issues, the Transportation section enhances the department's ability to efficiently provide the public infrastructure necessary for the safety and well being of all Alaskans.

Component Goals and Strategies

Provide legal advice to and representation for the Department of Transportation and Public Facilities (DOT/PF) on the myriad issues that it faces.

Provide representation and legal advice to DOT/PF, including the boards and commissions.

Assist DOT/PF in negotiating procurement contracts for equipment, services, construction, real estate, and other necessities on behalf of the department.

Defend DOT/PF procurement decisions and practices.

Assist with and defend the procurement decisions and practices of agencies that have received delegations of procurement authority from the commissioner of DOTPF.

Prepare legislation, regulations, and legal actions necessary to fulfill the goals of DOTPF.

Initiate and prosecute civil actions necessary to protect public access to state and private lands and to navigable waters throughout Alaska.

Initiate and prosecute civil actions necessary to protect public transportation facilities and corridors both within and beyond state borders.

Prosecute civil actions against unlawful users of state lands and facilities.

Key Component Issues for FY2002 – 2003

Continue level of service provided in previous fiscal year.

Major Component Accomplishments in 2001

Contract Claims:

- Assisted Alaska Marine Highway System in responding before a hearing officer to \$46 million additional compensation claim for construction of the M/V Kennicott. (The claim settled November 2, 2001, for \$500,000 from a bonding company and only \$500,000 from the state.)

- Obtained favorable superior court decisions to award approximately just 50% of claim arising from termination of contract to renovate Chena Hot Springs Road and adopting DOT&PF's legal position relating to interest on claim.
- Successfully settled Seward Highway construction contract claim for less than half of \$5 million claim.
- Assisted with the evaluation and arbitration of claim for additional compensation related to Kiana Runway project.
- Assisted with the resolution of a dispute over revegetation of Native corporation land disturbed in connection with airport construction in Tuntutuliak.
- Assisted in the settlement of litigation brought by property owners along the Chena Hot Springs Road relating to the reconstruction of their driveways.

Eminent Domain Actions:

- Secured right-of-way by condemnation for road improvements, defeating \$1.5 million claim for additional compensation before a Ketchikan jury.
- Defended inverse condemnation claims that DOT/PF's actions took interests in private property, including arguing to the Alaska Supreme Court that a taking does not occur when property values decrease allegedly as a result of the State's planning activities.

Defense of State Right-of-Way:

- Argued successfully before Alaska Supreme Court to establish that a local platting agency has no authority to vacate state right-of-way. (Decision issued November 2, 2001)
- Obtained access to install structural supports for Parks Highway in ongoing civil action against international mining companies that excavated support for right-of-way, causing highway to subside.
- Established DOT/PF's authority over right-of-way, and lack of jurisdiction of U.S. Interior Board of Land Appeals (IBLA) in action before IBLA.
- Obtained federal court decision establishing that notice of a claim under the Quiet Title Act is not jurisdictional when DOT/PF seeks judicial review of an IBLA decision in federal court.
- Obtained federal court decision establishing jurisdiction of court to hear state's claim that Native allotment encroached on highway.
- Resolved forty-year-old native allotment claim at Nondalton Airport.
- Obtained favorable IBLA decision affirming validity of Tok Cutoff Highway right-of-way grant.
- Obtained favorable federal district court decision affirming DOT/PF's rights to Parks Highway right of way.
- Obtained federal court decision establishing that notice of a claim under the Quiet Title Act is not jurisdictional when DOT/PF seeks judicial review of an IBLA decision in federal court.
- Obtained federal court decision establishing jurisdiction of court to hear state's claim that Native allotment encroached on highway.
- Resolved forty-year-old native allotment claim at Nondalton Airport.
- Obtained favorable IBLA decision affirming validity of Tok Cutoff Highway right-of-way grant.
- Obtained favorable federal district court decision affirming DOT/PF's rights to Parks Highway right of way.

Environmental:

- Represented Ted Stevens Anchorage International Airport in resolving \$1 million claim against Anchorage Fueling and Service Company for amounts expended cleaning up contamination related to jet fuel distribution system; established framework for allocating at least \$2.5 million in anticipated future expenses.
- Resolved U.S. Environmental Protection Agency enforcement action arising out of highway contractor's disposal of excess dirt on bluff in Homer.

Miscellaneous:

- Assisted Ted Stevens Anchorage International Airport in filings before U.S. Department of Transportation resulting in the award of sixteen new weekly cargo landings in Anchorage serving China.
- Successfully assisted with structuring and closing innovative AIDEA financing and lease arrangement, transferring title to new Williams Lynx CargoPort facility to Ted Stevens Anchorage International Airport.
- Consummated sale of Alaska Court System land along Chena River to Fairbanks North Star Borough.
- The State obtained a judgment in superior court that a state court had no jurisdiction to consider a claim by the owner of a Native allotment that the Parks Highway trespassed on her Native allotment. This judgment was defended by the State in an appeal before the Alaska Supreme Court.

Statutory and Regulatory Authority

AS 44.23.020

Transportation Section

Component Financial Summary

All dollars in thousands

	FY2001 Actuals	FY2002 Authorized	FY2003 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	1,299.7	1,583.5	1,661.5
72000 Travel	23.6	20.4	20.4
73000 Contractual	663.5	428.7	428.7
74000 Supplies	22.7	33.2	33.2
75000 Equipment	16.9	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	2,026.4	2,065.8	2,143.8
Funding Sources:			
1004 General Fund Receipts	0.0	0.0	1.6
1007 Inter-Agency Receipts	2,026.4	2,065.8	2,142.2
Funding Totals	2,026.4	2,065.8	2,143.8

Estimated Revenue Collections

Description	Master Revenue Account	FY2001 Actuals	FY2002 Authorized	FY2002 Cash Estimate	FY2003 Governor	FY2004 Forecast
<u>Unrestricted Revenues</u>						
None.		0.0	0.0	0.0	0.0	0.0
Unrestricted Total		0.0	0.0	0.0	0.0	0.0
<u>Restricted Revenues</u>						
Interagency Receipts	51015	2,026.4	2,065.8	2,495.8	2,142.2	2,242.2
Restricted Total		2,026.4	2,065.8	2,495.8	2,142.2	2,242.2
Total Estimated Revenues		2,026.4	2,065.8	2,495.8	2,142.2	2,242.2

Transportation Section
Proposed Changes in Levels of Service for FY2003

None.

Summary of Component Budget Changes
From FY2002 Authorized to FY2003 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2002 Authorized	0.0	0.0	2,065.8	2,065.8
Adjustments which will continue current level of service:				
-Adjust vacancy by fund source between line items and components ADN# 0320124	0.0	0.0	24.0	24.0
-Year 3 Labor Costs - Net Change from FY2002	1.6	0.0	36.8	38.4
Proposed budget increases:				
-Legal Secretary Reclassification	0.0	0.0	15.6	15.6
FY2003 Governor	1.6	0.0	2,142.2	2,143.8

Transportation Section
Personal Services Information

Authorized Positions		Personal Services Costs		
	<u>FY2002</u>	<u>FY2003</u>		
	<u>Authorized</u>	<u>Governor</u>		
Full-time	18	19	Annual Salaries	1,327,799
Part-time	1	1	COLA	42,459
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	357,617
			<i>Less 3.84% Vacancy Factor</i>	(66,375)
			Lump Sum Premium Pay	0
Totals	19	20	Total Personal Services	1,661,500

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney III	0	0	1	0	1
Attorney IV	4	2	0	0	6
Attorney V	2	2	2	0	6
Law Office Assistant I	2	2	0	0	4
Law Office Assistant II	1	0	1	0	2
Paralegal II	1	0	0	0	1
Totals	10	6	4	0	20